

REMARKS

Claims 1-33 are currently pending.

The Office Action rejected claims 1-4 and 11-30 under 35 U.S.C. § 102 as anticipated by U.S. patent 6,669,933 (“Duffer”), and claims 5-10 and 31-33 under 35 U.S.C. § 103 as obvious over Duffer. In view of the following comments, Applicants request reconsideration and withdrawal of these rejections.

The invention compositions contain at least one oxidation dye and an alkalinizing agent comprising at least one metasilicate and at least one alkanolamine. Such compositions are beneficial because they address and minimize problems associated with previous compositions containing different alkalinizing agents such as malodor (for example, from ammonia) and irritation (for example, from excess monoethanolamine). (See, page 2, lines 25-28). More specifically, the examples in the present application (at pages 13-15) demonstrate that the claimed compositions having less alkalinizing agent generally (7.45%) and less monoethanolamine specifically (5.45%) have equivalent dyeing properties to compositions containing significantly more alkalinizing agent in the form of monoethanolamine (10%). (See, page 15, lines 11-14). Such comparative compositions containing 10% monoethanolamine would be expected to cause irritation. (See, page 2, lines 27-28). Thus, the claimed compositions have equivalent dyeing properties to compositions containing 10% monoethanolamine but have significantly better sensory characteristics.

Furthermore, as demonstrated in the previously-submitted Rule 132 declaration, the invention compositions result in more homogeneous coloring than comparative compositions containing either a silicate or aqueous ammonia (ammonium hydroxide). That is, as explained in the Rule 132 declaration, a significant difference in color homogeneity existed between the Invention Composition A and both Comparative Compositions. (See, Rule 132 dec., par. 6). This vast difference in color homogeneity properties was surprising and unexpected given the similarity of the compositions tested. (See, Rule 132 dec., par. 6). Thus, the invention compositions provide unexpectedly and significantly better color homogeneity properties than compositions containing other alkalizing agents (1) ethanolamine and (2) a silicate or ammonium hydroxide.

In view of the above, it is clear that not all alkalizing agents are equal or interchangeable. Rather, the claimed combination of alkalizing agents provides unexpected and significantly improved benefits and properties over other alkalizing agents, allowing better coloring and better application characteristics at the same time. It is this selection of agents, in the selected concentrations and ratios, resulting in the unexpected and improved properties, which constitutes patentable subject matter.

Duffer neither teaches nor suggests the claimed combination of ingredients in the required concentrations/ratios. Duffer at col. 6 sets forth a list of alkaline agents. Duffer also indicates that the preferred alkaline reagent is composed of ammonia and alkanolamine. (See, for example, col. 7, lines 3-5 and example 1). Consequently, the specific combination of

alkanolamine and sodium metasilicate is neither described nor suggested in Duffer. Rather, Duffer teaches away from such a combination --- when there is a combination with alkanolamines, ammonia is always present instead of any other alkalizing agent (let alone metasilicates). Thus, Duffer neither teaches nor suggests the claimed invention.

This is particularly true for claims 5-10 (which require the presence of specific concentration ranges of alkalinizing agents) and claims 31-33 (which require the presence of specific ratios of alkanlinizing agents): nothing in Duffer would motivate one skilled in the art to combine the required alkalinizing agents in the specified amounts/ratios with the expectation that a composition having suitable dyeing properties would result, let alone a composition which also had improved sensory characteristics.

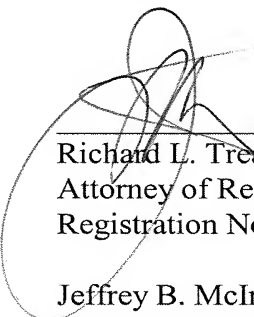
For all of the above reasons, Applicants respectfully request reconsideration and withdrawal of the pending rejections under 35 U.S.C. §§ 102 and 103.

Application No. 10/603,815
Response to Office Action dated June 6, 2007

Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Richard L. Treanor
Attorney of Record
Registration No. 36,379

Jeffrey B. McIntyre
Registration No. 36,867

Customer Number

22850

Tel #: (703) 413-3000
Fax #: (703) 413-2220